

No. 12-md-2323 (AB) MDL 2323

Filed 3-20-17

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

|   |          |                                     |
|---|----------|-------------------------------------|
| <b>IN RE NATIONAL FOOTBALL LEAGUE )</b> | <b>)</b> | <b>No. 12-md-2323 (AB) MDL 2323</b> |
| <b>PLAYERS CONCUSSION LITIGATION )</b>  | <b>)</b> |                                     |
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| <hr style="width: 100%;"/>              | <b>)</b> |                                     |
| <b>RICKEY DIXON )</b>                   | <b>)</b> |                                     |
| <b>PRO SE PLAINTIFF )</b>               | <b>)</b> |                                     |
|   | <b>)</b> | <b>Honorable Anita B. Brody</b>     |
| <b>vs. )</b>                            | <b>)</b> |                                     |
|   | <b>)</b> |                                     |
|   | <b>)</b> |                                     |
| <b>NATIONAL FOOTBALL LEAGUE and )</b>   | <b>)</b> |                                     |
| <b>NFL PROPERTIES, LLC, )</b>           | <b>)</b> |                                     |
| <b>SUCCESSOR-IN-INTEREST to NFL )</b>   | <b>)</b> |                                     |
| <b>PROPERTIES, INC. )</b>               | <b>)</b> |                                     |
| <b>DEFENDANT )</b>                      | <b>)</b> |                                     |

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**Pro Se Plaintiff, Rickey Dixon, Response to Zimmerman Reed Notice and Motion for Attorney Lien and Limited Opposition to Co-Lead Class Counsels' Petition for Attorney Fees and Adoption of a Set-Aside of Each Monetary Award.**

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Comes now, Pro Se Plaintiff, Rickey Dixon, (Plaintiff) and respectfully submits its' Response and Opposition to Zimmerman Reed' (Petitioner) Notice and Motion for Attorney Lien and Limited Opposition to Co-Lead Class Counsels' Petition for Attorney Fees and Adoption of a Set-Aside of Each Monetary Award.

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Your Honorable Judge Anita B. Brody,

I thank you for the opportunity to use my voice to tell my story and to respond to the very questionable actions of my former attorney, Zimmerman Reed. Per this letter I would also like to address the Co-Lead Class Counsels' Petition for Attorney Fees and Adoption of a Set-Aside of Each Monetary Award.

### **Introduction**

I am Rickey Dixon, a former National Football League Player (NFL) who played with the Cincinnati Bengals and the Los Angeles Raiders. I played in the NFL for 6 years. I am sure you have heard the stories. During the time I played coaches and the NFL brushed off our injuries, we got back in the game, we finished the game.

I loved the game of football, I still do, and I played it as hard as I loved it. I led with my head to make tackles, trying to demolish the opposing players. I hit hard, knocking players and even myself out- this is how we were coached to play the game. I took out all of my frustrations, hurts and pains on the football field and ultimately the game I love is killing me.

In July 2013, I was diagnosed with Amyotrophic Lateral Sclerosis ("ALS"). I am no longer able to take care of myself or my wife and children whom I love so very much. Even the smallest chores that most people take for granted causes me intense pain. Every movement I make is a great effort that feels like I am trying to lift a truckload of bricks. Things like brushing my teeth or brushing my hair. I can no longer wash my face or put on my socks. I cannot feed myself, take care of my own hygiene. Can you imagine how humiliating it is to have an accident and to depend on my beautiful wife to clean me up. Or to hear my baby girl ask, daddy wears

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diapers? The same baby girl that just 5 years ago I taught how to swing, how to ride her bike, how to tie her shoes and proudly escorted her to the Daddy Daughter dance.

You can't imagine how it pains me to hear her speak about her friend's daddies taking them to the Daddy Daughter dances and the tears in her eyes when she says she doesn't want to go with her big brother because he is not her daddy.

I wasn't the perfect player or person on or off the field. I made many mistakes in my life. There was always a rumor, a story surrounding my playing career. Most, not all, of those rumors and stories are untrue. I make no excuses for my life and if I die tomorrow I lived life to the fullest and I have died a happy man.

I'm not concerned about myself in writing this letter to you. No, today I write this letter on behalf of my family, my wife of over 20 years, Lorraine. My eldest daughter Brittanney, who has learning difficulties, my eldest son Rickey Jr. who is in college, my middle son Cameron who at the age of 6 developed encephalitis and while in a coma had two strokes. As a result of this brain injury, Cameron now has cognitive delays and epilepsy; he will require assistance and care for the remainder of his life. Then there is my baby girl Alana, only 9 years old, a straight A/B pageant princess with dreams of acting and modeling. These are the people in my life whom I live and battle each day for.

Your Honor for me at least, there are no more second chances. My body is too badly damaged to do much of anything. My last efforts will be on behalf of my family. To fight on their behalf until I have nothing left to fight with. It is for them that I am willing to take my last breath, my last eye blink to write this letter. With my every being, I ask you to PLEASE to deny the Petitioners request to place an attorney's lien on my settlement award, to deny them any

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monies from my settlement award and to find that the 5% fee to fund the settlement will be taken out of the 112.5 million paid for by the NFL.

I also think it is important to understand that for so many of us players and our families, this is not a paycheck to splurge on a new car, house, and/or vacations. For us, this is so much more, this is our lives. This settlement makes the difference between the electric wheelchair or the manual one. This settlement replenishes our savings accounts where every dollar, including retirement and college funds was spent to try the newest experimental drug or treatment.

My wife Lorraine has worked as an environmental attorney for over twenty years. I watch her get up on mornings with three hours of sleep to keep our family financially together. She helps me at night by draining hoses, ensuring that equipment is working properly, helping me to the restroom or switching the settings on my bed. She watches over our son if he is having multiple seizures or comforts our 9-year-old from nightmares of her daddy not waking up and she is the only one home with her. Lorraine works eight hour days, stressful days, only to come home and work another 4 hours cleaning, cooking, taking care of our kids, doing homework, washing and drying clothes and getting up the next day to do it all again. Her back hurts, I can tell when she helps to lift me. She's tired, her smile has a tinge of sadness. She thinks that I cannot hear her tears at night, I do, but I'm not able to walk over to her to wrap my arms around her to comfort her, to ensure her that everything is going to be OK. The stress that this disease, this case, these attorneys have placed on her would have broken a lesser man but not her she drives on, tired, without sleep, she does what needs to be done.

Now Lorraine is fighting Zimmerman Reed for the outrageous claims they have alleged. She is fighting Zimmerman Reed because she knows we need every dime of this settlement for our family and my medical needs. Zimmerman Reed knows that they have done very little on

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our case; they know Lorraine has done the majority of the work pertaining to our case. Zimmerman Reed knows that my case is cut and dry, it requires no analysis, no experts. My case is straightforward; I have been diagnosed with ALS. At the time of my diagnosis I was 46 years old. Based on the settlement, I will be awarded 4.5 million dollars. The credentials of my neurologist are unquestionable. What did Zimmerman Reed do prior to their release from my case? Zimmerman Reed knows that the work for the individual clients begins now, not years ago when I released them. It was Lorraine who registered myself, my minor children and herself for the settlement. It will be Lorraine who fills out the forms, submits the documentation and answers all questions. What services of any importance has Zimmerman Reed done on my individual case, other than file the short form Complaint? NOTHING. The majority of services Zimmerman Reed performed prior to their release was for the class and they will be compensated by the NFL, any risks taken by Zimmerman Reed will be compensated by the NFL. If I gave Zimmerman Reed my blood they would still want more.

My daughter Brittanney is a sweet 27-year-old with learning disabilities. Prior to my diagnosis she had just finished esthetician school and had begun working at a day care. As my physical condition begun to deteriorate she quit her job to stay home and to help take care of me. She has dreams of opening a day care facility. Zimmerman Reeds' motion for attorney lien, requesting that all of any settlement award be withheld impacts her. It delays her dreams, her goals, my desires for her life. The same firm that advocated that the players receive their awards as soon as possible now seeks to delay my award.

My son Rickey Jr. was accepted into a prestigious college his Freshman year. The same year as my diagnosis. He was only five hours away from home but he was so consumed with worry and guilt he was unable to focus on his studies. He made the decision to come back home

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and spent a year at a Jr. College. He is now a Junior at a University 1 hour away but he feels better because he can get home quickly if we need him.

Zimmerman Reed will be unjustly enriched if allowed to claim attorney fees regarding my settlement case for work they never performed. Zimmerman Reed claims litigation risk but as stated earlier will be compensated for any risk taken my sharing in the 112.5 million dollars paid for by the NFL. Rickey Jr. is impacted by Zimmerman Reeds decision to try and delay and then claim attorney fees on my settlement award. Rickey Jr. is impacted by the embellished allegations of work performed on my case by Zimmerman Reed.

My special need son is now 20 years old. He has seizures that are uncontrolled by medication. He is strong and very athletic and would have likely been an athlete like me, but the brain injury he suffered took those dreams away. Now we only pray to stop the seizures and maybe by doing so he will start speaking again. We had hoped that with the settlement award we could travel to a state where medical marijuana is legal and see if it would help control his seizures. We had hoped that one day he could live independently and speak again. Zimmerman Reed's attempt to claim fees from my settlement impacts Cameron. It delays any treatment he can seek. I could understand the tactics of Zimmerman Reed if they had provided services regarding my individual settlement. I could understand Zimmerman Reeds desire to delay my entire settlement if they were not receiving any compensation for the de minimus amount of work they did perform. But Zimmerman Reeds Motion is unreasonable, unjust and a last ditch attempt to collect on fees that they do not deserve.

My baby girl Alana, my pageant princess and future actress, model and animal lover is just 9 years old. The last time I was required to be rushed to the hospital for chocking she suffered a stress headache for three days that prevented her from attending school. She asks her

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mom if her daddy is going to die. She has been able to maintain an A/B average despite the stress environment she lives in. She competes in and win pageants, volunteers with the community and is the most loving child you would ever meet. She has a long way to go to achieve her dreams. She will require financial and emotional support along the way. Zimmerman Reeds' motion impacts Alana, it probably impacts this sweet baby girl's future the most.

I hired Zimmerman Reed in 2012, but in 2015 when they were released. Zimmerman Reed couldn't tell you the name of one of my children. Zimmerman Reed could tell you they hired an expert witness who was not needed in my case. They could tell you I had taken out a high interest loan with their assistance,<sup>1</sup> they could tell you what my likely settlement award would be but they couldn't tell you anything about my family even though they had been employed as my attorney for approximately 3 years. Zimmerman Reed alleges several services that were performed by them in my case but only submitted \$2,304.55 for expenses in three years.<sup>2</sup> They seek to delay my entire settlement but can only demonstrate a little over \$2,304.55 for fees.

Your Honor, the services that Zimmerman Reed provided from 2012 through 2015 consisted only of the following:

- Mailing status updates regarding the Class Action Settlement;
- E-mailing status updates regarding the Class Action Settlement;
- Requesting and paying for copies of medical records;
- Securing a pre-settlement loan for Plaintiff;
- Filing the Short Form Complaint;
- Sending out two questionnaires that Plaintiff filed out;
- Answering and returning phones calls from Plaintiff regarding the status of the Class Action;
- Hiring an Expert witness that was not needed; and

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<sup>1</sup> See Exhibit 1

<sup>2</sup> See Exhibit 1

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- Copying medical records.

Your Honor, it is for my family that I fight with every strength of my being. I will not sit back and be quiet allowing Zimmerman Reed to allege fees and services that are simply not true. Zimmerman Reed's motion is unreasonable unfair and this motion if granted would unjustly enrich Zimmerman Reed.

I respectfully ask the Court to deny Zimmerman Reed's motion and to hold that Zimmerman Reed is not entitled to any attorney fees from the monies that will be awarded to me under the Class Action Settlement.

**Limited Opposition to Co-Lead Class Counsels' Petition for Attorney Fees and Adoption of a Set-Aside of Each Monetary Award.**

Your Honor like the Estate of Kevin Turner I fully support that the attorneys' who worked on the Class Action Settlement should be fully compensated for their tremendous work on this case, including Zimmerman Reed. However, I strongly oppose that the 5% Set-Aside should be taken out of each monetary award of the victims of this case, the players.

I simply do not understand why the victims of this Class Action Settlement should be required to fund the program. Doesn't this obligation belong to the NFL? Shouldn't the NFL, not the players, be required to fund the Class Action Settlement. Why are the victims penalized for ensuring that the program continues? Surely this cannot be correct? For me 5% of my potential settlement award is no small fee. It amounts to \$225,000.00. Surely a portion of the 112.5 million dollars can be set aside to fund the administration of the program<sup>3</sup>. It would unfair and unequitable to require the very victims of the settlement to take their awards to ensure that

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<sup>3</sup> To date the Class Action Attorneys have only claimed 46,363,051.73 in fees. See Exhibit 3.



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the administration of the program continues. I urge your Honor to please consider the wisdom of what the Co-Lead Counsels are proposing and provide an equitable remedy that does not punish the victims for receiving a settlement award to address their injuries.

**Conclusion**

1. Plaintiff, Rickey Dixon, respectfully requests (a) that the Court deny Petitioners' Request for an attorney lien and find that Plaintiff will be able to recover its' full monetary award provided under the Class Action Settlement Agreement.
2. Plaintiff, Rickey Dixon, also respectfully requests that the Court orders that the 5% Set-Aside be taken from the 112.5 million dollars paid by the NFL.

Respectfully submitted,

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Rickey Dixon  
Pro Se Plaintiff  
908 Country Creek Lane  
Red Oak, Texas 75154  
Telephone: (214)727-5402  
[dixonldixon4@yahoo.com](mailto:dixonldixon4@yahoo.com)  
[dixonldixon4@aol.com](mailto:dixonldixon4@aol.com)

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